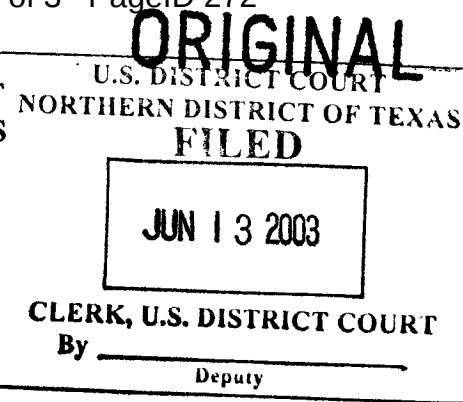


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



CINDEE MACK,

Plaintiff,

v.

CENTER OPERATING COMPANY,
L.P.

Defendant.

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C.A. No. 301-CV-2125-R

**MOTION FOR LEAVE TO SUPPLEMENT JOINT APPENDIX OF EVIDENCE IN
SUPPORT OF THE PARTIES' SUMMARY JUDGMENT BRIEFING**

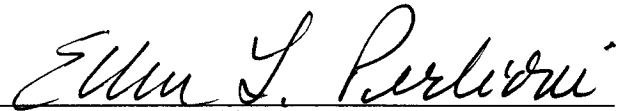
Comes now Center Operating Company, L.P., Defendant ("COC") and requests leave to supplement the Joint Appendix of Evidence in Support of the Parties' Summary Judgment Briefing in the above-referenced case. Leave to supplement should be granted because Defendant could not reasonably anticipate that Plaintiff Mack would submit a Declaration contradicting her own deposition testimony that Defendant had good reason to believe was resolved. In Plaintiff's Declaration she swears that company management took no action when she reported allegedly offensive email. In her deposition Plaintiff had previously acknowledged that the company did take action through an email from the President, Brad Mayne, issuing a warning on company policy. The supplementation is a single page. App. 0122. It is attached to the Joint Appendix of Evidence in Support of the Parties' Summary Judgment Briefing pending a ruling on this motion with the understanding that the Court will remove or disregard it if this motion is not granted.¹ No unfair prejudice to Plaintiff is created by the submission of the deposition testimony because Plaintiff has a copy of the deposition and is fully aware of what she

¹ A true and correct copy of this document is also attached to the instant Motion for the Court's reference.

testified to. Granting Defendant's motion for leave is in the interest of justice and a full and fair record for disposition of the motion.

WHEREFORE, Defendant requests that leave be granted to Defendant to supplement the Joint Appendix of Evidence in Support of the Parties' Summary Judgment Briefing with Appendix page 0122.

Respectfully submitted,



M. Scott McDonald
Texas State Bar No. 13555505
Ellen L. Perlioni
Texas State Bar No. 00794155
Brian D. Johnston
Texas State Bar No. 24032471

LITTLER MENDELSON
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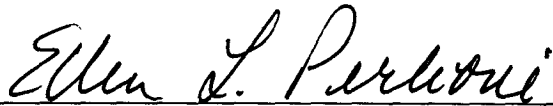
Kevin B. Wiggins
Texas State Bar No. 21441600
H. Ron White
Texas State Bar No. 21303500
Tracey R. Wallace
Texas State Bar No. 00797617

WHITE & WIGGINS. L.P.
1999 Bryan Street, Suite 3470
Dallas, TX 75201

**ATTORNEYS FOR DEFENDANT
CENTER OPERATING COMPANY, L.P.**

CERTIFICATE OF CONFERENCE

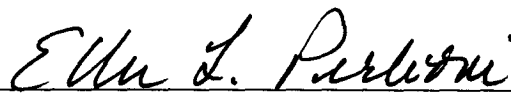
On June 12, 2003, counsel for Defendant, Ellen L. Perlioni, conferred in person with counsel for Plaintiff, John E. Wall, Jr., regarding this Motion. Mr. Wall indicated that he wanted time to look at the deposition page Defendant requests to supplement the Appendix with to make a determination as to whether he will or will not oppose this Motion. Counsel for COC made follow-up attempts to contact Mr. Wall on June 13, 2003, and left a message asking for a response as to Plaintiff's position regarding the granting of this Motion. At the time this Motion was filed, Mr. Wall had yet to respond and confirm whether or not he opposed the granting of this Motion.


Ellen L. Perlioni

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2003, a true and correct copy of the foregoing was sent via hand delivery to:

John E. Wall, Jr.
Law Offices of John E. Wall, Jr.
5728 Prospect Avenue, Suite 2001
Dallas, TX 75206-7284


M. Scott McDonald
Ellen L. Perlioni
Brian D. Johnston